

Notice of Allowability

Application No.

10/817,358

Examiner

Fadi H. Dahbour

Applicant(s)

MANDRUSOV ET AL

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed on 07/25/05.
2. ☒ The allowed claim(s) is/are 21-56.
3. ☒ The drawings filed on 01 April 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).


* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |


Fadi H. Dahbour
Examiner
Art Unit 3743

DETAILED ACTION

Allowable Subject Matter

1. The Examiner acknowledges Applicant's submission of the amendment filed on 07/25/05.

2. The allowed claims are 21-56.

3. The following is an examiner's statement of reasons for allowance:

The prior art of record does not teach or fairly suggest the recitations of the specific features of the method of claims 21, 23, 27, 28, 30, 31 and 47, including especially the following:

The primary reason for the allowance of independent claim 21, is the inclusion of the concentration gradient being formed by creating a first lesion in the ischemic region or in the tissue of the region adjacent the ischemic region, and creating a second lesion in the ischemic region or in the tissue of the region adjacent the ischemic region, and wherein the lesions have different sizes.

The primary reason for the allowance of independent claim 23, is the inclusion of the concentration of the angiogenesis stimulating substance being highest at about the center of the ischemic region.

The primary reason for the allowance of independent claim 27, is the inclusion of the concentration of the angiogenesis stimulating substance being lower in the ischemic region than in the tissue of the region adjacent the ischemic region.

The primary reason for the allowance of independent claim 28, is the inclusion of the concentration variance being formed by creating a first lesion in the ischemic region

or in the region adjacent the ischemic region, and creating a second lesion in the ischemic region or in the region adjacent the ischemic region, and wherein the lesions have different sizes.

The primary reason for the allowance of independent claim 30, is the inclusion of the angiogenesis stimulating substance being released by the tissue of the region adjacent to the region of ischemic tissue.

The primary reason for the allowance of independent claim 31, is the inclusion of stimulating the ischemic myocardial tissue and/or myocardial tissue near the ischemic myocardial tissue without piercing or cutting the myocardial tissue to trigger the release of an angiogenic factor.

The primary reason for the allowance of independent claim 47, is the inclusion of using the tissue stimulating device to cause the release of an angiogenic substance without piercing or cutting the tissue over which the tissue stimulating device is positioned.

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fadi H. Dahbour whose telephone number is 571-272-4792. The examiner can normally be reached on M-F, 9am-5:30pm est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett, can be reached on (571) 272-4791. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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